

**STATE OF LOUISIANA**

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**IN THE MATTER OF:**

**190 PLAZA PROFESSIONAL CENTER, LLC  
AI # 40398**

**PROCEEDINGS UNDER THE LOUISIANA  
ENVIRONMENTAL QUALITY ACT  
LA. R.S. 30:2001, ET SEQ.**

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\*  
\* **Enforcement Tracking No.**  
\* **WE-P-02-1201**  
\*  
\*  
\* **Docket No. 2003-7100-EQ**  
\*

**SETTLEMENT**

The following Settlement is hereby agreed to between 190 Plaza Professional Center, LLC ("Respondent") and the Department of Environmental Quality ("DEQ" or "the Department"), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. ("the Act").

**I**

Respondent is a corporation who owns and/or operates a sewage treatment facility located at 2301 North U.S. Highway 190, Covington, St. Tammany Parish, Louisiana ("the Facility").

**II**

On March 23, 2003, the Department issued a Penalty Assessment, Enforcement No. WE-P-02-1201, in the amount of Six Thousand Five Hundred Thirty-Seven And 37/100 Dollars (\$6,537.37) to Respondent, which was based upon the following findings of fact:

The Respondent owns and/or operates a sewage treatment plant located at 2301 North U.S. Highway 190 in Covington, St. Tammany Parish, Louisiana. The Respondent was granted coverage under Louisiana Pollutant Discharge Elimination System (LPDES) General Permit LAG530000 on or about April 9, 1998, and was specifically assigned permit number LAG530020.

The permit requires the Respondent to comply with Schedule A of the permit. Under the terms and conditions of LPDES Permit LAG530020, the Respondent is authorized to discharge treated sanitary wastewater to an unnamed ditch, thence to the Abita River, thence to the Bogue Falaya River, all waters of the State.

An inspection conducted by employees of the Department on or about September 19, 2001, revealed the Respondent was not properly operating and maintaining its facility. Specifically, there was no chlorine in the chlorine contact chamber of the sewage treatment plant. This is a violation of LPDES permit LAG530020 (Part III, Sections A.2. and B.3), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2355.A, LAC 33:IX.2355.E, and LAC 33:IX.2767.A.5.

An inspection conducted by employees of the Department on or about September 19, 2001, revealed the Respondent was not sampling its effluent as required by LPDES permit LAG530020. Specifically, the Respondent failed to conduct sampling for the monitoring periods of 1998, 2000, and 2001. Each failure to sample the effluent for the afore-mentioned monitoring periods is a violation of LPDES permit LAG530020 (Part I Section B, Part III, Sections A.2. and C.2), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2355.A, and LAC 33:IX.2767.A.5.

A file review conducted by employees of the Department on or about February 25, 2002, revealed that the Respondent failed to submit Discharge Monitoring Reports (DMRs) as required by LPDES permit LAG530020 for the monitoring periods of 1998, 1999, 2000, and 2001. Each failure to submit DMRs is a violation of LPDES permit LAG530020 (Part I, Section C.6, and Part III, Sections A.2 and D.4) La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2355.A, LAC 33:IX.2355.L.4, and LAC 33:IX.2767.A.5.

Sample analyses submitted by the Respondent for the 2002 reporting period revealed the following excursion to LPDES permit LAG530020:

<b>Date</b>	<b>Outfall</b>	<b>Parameter</b>	<b>Limit</b>	<b>Result</b>
January 2002	001	Fecal Coliform	400 col./100 mL (Weekly Avg.)	11,040 col./100 mL

This excursion constitutes a violation of LPDES permit LAG530020, La. R.S. 30:2076 (A) (1), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2355.A.

The Respondent was issued Consolidated Compliance Order & Notice Of Potential Penalty WE-CN-02-0132 on or about March 22, 2002, for the violation of operation and maintenance requirements, sampling and monitoring violations, and record and reporting requirements. The Compliance Order portion of the Order required the Respondent to:

- A) immediately take any and all steps necessary to achieve and maintain compliance with permit limitations and conditions contained in LPDES permit LAG530020;
- B) submit properly completed DMRs to the Enforcement Division for the monitoring periods 1998 through 2001(the Respondent was also ordered to submit a letter identifying any monitoring period for which no sampling was performed); and
- C) submit a written report to include the circumstances of the cited violations.

Consolidated Compliance Order & Notice Of Potential Penalty WE-CN-02-0132 is a final action of the Department and is not subject to further administrative review.

III

In response to the Penalty Assessment, Enforcement No. WE-P-02-1201, Respondent made a timely request for a hearing.

IV

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

V

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of FOUR THOUSAND FIVE HUNDRED AND NO/100 (\$4,500.00) of which THREE HUNDRED ~~TWENTY-ONE~~ AND 37/100 DOLLARS (\$321.37) represents DEQ's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to DEQ as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).]

VI

Respondent further agrees that the Department may consider the inspection report(s), the Penalty Assessment, and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

## VII

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

## VIII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

## IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in St. Tammany Parish, Louisiana. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted a proof-of-publication affidavit to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice

## X

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the

Department. Penalties are to be made payable to the Department of Environmental Quality and mailed to the attention of Darryl Serio, Office of Management and Finance, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303.

XI *and the violations*


In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his/her respective party, and to legally bind such party to its terms and conditions.

WITNESSES:

190 PLAZA PROFESSIONAL CENTER, LLC



Rebecca Guglielmo

BY:

  
(Signature)

A.J. CIGALI

(Printed)



Angela Boleware

TITLE:

THUS DONE AND SIGNED in duplicate original before me this 12<sup>th</sup> day of  
December, 20 03, at Covington, La.



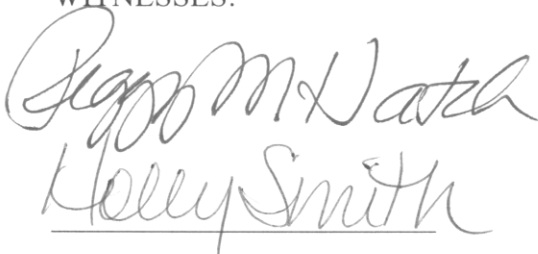
NOTARY PUBLIC Silvia G. Muller

WITNESSES:

STATE OF LOUISIANA

Hall Bohlinger, Secretary

Department of Environmental Quality



BY:



R. Bruce Hammatt, Assistant Secretary  
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 29 day of  
April, 20 04, at Baton Rouge, Louisiana.

  
NOTARY PUBLIC

Approved:

  
R. Bruce Hammatt, Assistant Secretary



CHARLES C. FOTI, JR.  
ATTORNEY GENERAL

State of Louisiana  
DEPARTMENT OF JUSTICE  
P.O. BOX 94005  
BATON ROUGE  
70804-9005

RECEIVED  
APR 21 2004  
LA. DEPT. OF ENV. QUALITY  
LEGAL AFFAIRS DIVISION

April 19, 2004

Mike D. McDaniel, Secretary  
La. Department of Environmental Quality  
Office of the Secretary  
P.O. Box 4301  
Baton Rouge, LA 70821-4301

Re: Review of DEQ Settlement;  
190 Plaza Professional Center, LLC  
WE-P-02-1201; AI #40398

Dear Secretary McDaniel:

Pursuant to the authority granted to me by R.S. 30:2050.7(E)(2)(a), I approve the above referenced settlement.

Sincerely,

  
NICHOLAS GACHASSIN  
First Assistant Attorney General

NG/cbw